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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

In re ADRIAN M., et al., Persons Coming  
Under the Juvenile Court Law.

SAN DIEGO COUNTY HEALTH AND  
HUMAN SERVICES AGENCY,

Plaintiff and Respondent,

v.

SAMANTHA C.,

Objector and Appellant.

D070086

(Super. Ct. No. SJ13037AB)

APPEAL from an order of the Superior Court of San Diego County, Laura J.

Birkmeyer, Judge. Affirmed.

Valerie N. Lankford, under appointment by the Court of Appeal, for Objector and Appellant.

Thomas E. Montgomery, County Counsel, John E. Philips, Chief Deputy County Counsel, and Paula J. Roach, Deputy County Counsel, for Plaintiff and Respondent.

Samantha C. (Mother) appeals from March 2016 orders of the juvenile court terminating her parental rights to her two children, Adrian M. and Eduardo V., Jr. (together Minors), and referring them to the San Diego County Health and Human Services Agency (Agency) for adoptive placement (the Orders). (Welf. & Inst. Code, § 366.26; all further statutory references are to this code unless otherwise stated.) The sole issue on appeal is whether the court erred in ruling that Mother did not meet her burden of establishing the application of the beneficial relationship exception to the termination of her parental rights.

Mother contends that, consistent with section 366.26, subdivision (c)(1)(B)(i), because she met her burden of establishing the existence of a beneficial relationship with each of the Minors, the juvenile court abused its discretion in failing to conclude that the termination of parental rights would not be detrimental to them. However, as we explain, substantial evidence supports the court's finding here that the beneficial parent-child relationship exception did not apply to either of the Minors. Thus, the court did not err in concluding that termination of the parental relationship would not be detrimental to the Minors. Accordingly, we affirm the Orders.

## I.

### FACTUAL AND PROCEDURAL BACKGROUND<sup>1</sup>

Mother is the mother of two sons, Adrian (born late 2007) and Eduardo (born mid-2013). Marco M. is Adrian's father, and Eduardo V., Sr. (Eddie) is Eduardo's father. Neither father is a party to the appeal.

#### A. *The Petitions (May 2014)*

In May 2014 — i.e., when Adrian was six years old, and Eduardo was almost one year old — the Agency received a referral alleging sexual abuse to Adrian. The social worker learned that the day prior to the referral, after an emotional outburst, Adrian told his afterschool childcare provider that Eddie had kissed him on his cheeks, touched him in " 'his privates,' " spanked him when he said " 'no' " and lied about having kissed him. The childcare provider was " 'really concerned' " because Adrian was in tears and " 'really scared.' "

About a week later, Adrian completed a forensic interview at the Chadwick Center,<sup>2</sup> where he reported that Eddie touched him " 'on his weenie.' " Adrian also disclosed that Eddie had spanked him with a belt and had punched him and Mother.

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<sup>1</sup> "In accord with the usual rules on appeal, we state the facts in the manner most favorable to the dependency court's order." (*In re Janee W.* (2006) 140 Cal.App.4th 1444, 1448, fn. 1.)

<sup>2</sup> The Chadwick Center for Children & Families is part of Rady Children's Hospital and offers programs and services for the prevention, identification and treatment of abused and traumatized children. (<<http://www.rchsd.org/programs-services/chadwick-center/> [as of Nov. 18, 2016]>.)

Later on the day of the referral, Mother explained to the social worker that Eddie was her boyfriend, but had not lived with her and the Minors since January 2014. Mother, the Minors, Mother's 16-year-old sister Justine and another minor sister all lived with Mother's former stepfather (i.e., the former husband of Mother's mother). Mother volunteered that in 2013, while Eddie gave her 16-year-old sister Justine a massage, he touched Justine's breast. The Agency confirmed that in July 2013, the superior court had issued a civil harassment restraining order against Eddie, which included personal conduct orders and stay-away orders precluding him from having any contact with Justine.<sup>3</sup> At the end of the interview, Mother signed a safety plan by which she would not allow the Minors to have contact with Eddie and she would not talk with Adrian about the alleged sexual abuse.

When the social worker met with Justine, Justine confirmed the July 2013 touching and restraining order, explaining that Eddie inappropriately touched her on many occasions after he moved in with Mother and the Minors in December 2012. Justine reported that Eddie drank daily, was often drunk and frequently used cocaine.<sup>4</sup> Justine had heard Eddie hit Mother, and Mother had told Justine that Eddie hits her. Justine also had heard Eddie strike Adrian, and after one of these occasions Adrian told

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<sup>3</sup> Mother's father and Justine confirmed that on other occasions Eddie had tried to have sex with Justine.

<sup>4</sup> Mother confirmed that Eddie drank alcohol and used cocaine — including, at times, with 16-year-old Justine. Mother's former stepfather, with whom Mother and the Minors lived, confirmed Eddie's alcohol use and suspected his drug use.

her that Eddie had kicked him. Despite the stay-away conditions in the safety plan, Mother snuck Eddie into the residence at night; and when Justine confronted Mother with the safety plan, Mother said she did not care.

Meanwhile, despite the safety plan, Eddie took the Minors to the beach and picked up Adrian on at least three consecutive days.<sup>5</sup>

Mother did not believe that Eddie had molested Adrian. Mother told the social worker that she was going to continue to allow Eddie to have contact with Eduardo (Eddie's son), though she verbally agreed that Eddie would have no contact with Adrian and the contact with Eduardo would be supervised. At the same time, Mother advised the social worker that two weeks later she, the Minors *and Eddie* were moving in with her father (the Minors' maternal grandfather). Multiple witnesses told the social worker that Mother's father used methamphetamines and previously had been arrested for being under the influence and possession of methamphetamines.

Following the forensic interview at the Chadwick Center, Mother signed a second written safety plan consistent with her verbal agreement: Adrian would have no contact with Eddie, and Eduardo's contact with Eddie would be supervised.

Based on the foregoing information, on May 22, 2014, the Agency filed the underlying petitions on behalf of the Minors.<sup>6</sup> As to Adrian, the Agency alleged

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<sup>5</sup> The social worker's report states that Eddie "pick[ed] up *the children from school*." (Italics added.) Since Eduardo was only 11 months old, the social worker must have meant either that Eddie picked up Adrian from school or that Eddie picked up both Minors from childcare (which Adrian attended after school).

jurisdiction under section 300, subdivision (d) based on a failure to protect Adrian adequately from sexual abuse.<sup>7</sup> As to Eduardo, the Agency alleged jurisdiction under section 300, subdivision (j) based on a substantial risk that Eduardo will be abused or neglected given the abuse or neglect inflicted on Adrian.<sup>8</sup> The Agency also filed a detention report on May 23, 2014 (May 2014 detention report) that contained the results of its investigation and interviews.

Pending the detention hearing, the Agency applied for and the court ordered a protective custody warrant for each of the Minors.

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<sup>6</sup> The Agency filed two separate petitions — one on behalf of Adrian, and one on behalf of Eduardo. Correspondingly, following each court hearing there are two separate orders — one for each of the Minors — in which the language is usually identical. For ease of reading, we will refer to only one petition or order, unless context or a specific ruling requires otherwise.

<sup>7</sup> "A child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court: [¶] . . . [¶] (d) The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse." (§ 300.)

<sup>8</sup> "A child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court: [¶] . . . [¶] (j) The child's sibling has been abused or neglected, as defined in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk that the child will be abused or neglected, as defined in those subdivisions. . . ." (§ 300.)

B. *The Detention Hearing (May 23, 2014)*

At the detention hearing on May 23, 2014, based on the evidence in the May 2014 detention report, the juvenile court found that the Agency had made a prima facie showing on the petition and detained the Minors in out-of-home care.

C. *The Amended Petition and Related Detention Hearing (Sept. 8 & 9, 2014)*

In anticipation of the jurisdictional hearing, in June 2014 the Agency prepared a lengthy jurisdiction/disposition report (June 2014 jurisdiction/disposition report).

After his initial interview with a social worker, Adrian confirmed that Eddie had touched him twice in the genital area. Adrian explained that these events occurred at his residence, at a time when Mother was at home but not with him. Adrian was aware that Eddie was no longer allowed in the house — because he is " 'mean' " according to Adrian — and confirmed that Eddie had spanked and hit him and had punched and kicked Mother and made her cry. Adrian stated that he needed to be able to protect himself from Eddie, and for this to happen Eddie needed to be out of his life; in the meantime, according to Adrian, Mother's former stepfather protected him from Eddie.

Mother remained in denial that Eddie had inappropriately touched either Adrian or Justine. With one exception, Mother also denied that she had violated the safety plans.

The Agency emphasized its concern for the safety of both Minors. Regardless whether the allegations would be sustained, there was strong evidence of domestic violence, exposure to drugs and Eddie's substance abuse.

The Agency provided the juvenile court with four addendum reports during the July through September 2014 time period (July–September 2014 addendum reports).

Notably, the Agency remained concerned that Mother had not accepted that there was a possibility that the allegations might be true — which casted doubt on Mother's ability to protect the Minors from further abuse.

On September 8, 2014, the Agency filed an amended petition. In a new count, under former section 300, subdivision (b),<sup>9</sup> the Agency alleged jurisdiction based the Minors having suffered, or a substantial risk that they will suffer, serious physical harm as a result of Mother's inability to provide regular care due to Eddie's substance abuse. More specifically, the Agency alleged harm or potential harm based on Eddie's use of cocaine and alcohol to excess — *as evidenced by* his inappropriate touching of Adrian and Justine, his violence with Mother, and his continued unauthorized contact with the Minors in violation of Mother's safety plans.

At the September 9, 2014 detention hearing on the amended petition, the court dismissed the sexual abuse counts (§ 300, subds. (d) [Adrian] & (j) [Eduardo]), leaving the failure to protect count as to each of the Minors (§ 300, former subd. (b)).<sup>10</sup> Based

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<sup>9</sup> The Agency filed the new count pursuant to what was then section 300, subdivision (b). That statute has since been amended, and without change former subdivision (b) is now found in subdivision (b)(1) of section 300. (Stats. 2014, ch. 29, § 64.)

"A child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court: [¶] . . . [¶] (b) The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of . . . the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's . . . substance abuse." (§ 300, former subd. (b); *id.*, subd. (b)(1).)

<sup>10</sup> Although the sexual abuse counts were dismissed, Eddie's alleged abuse of both Adrian and Justine remained at issue, since the failure to protect included the allegation



on the evidence in the May 2014 detention report, the June 2014 jurisdiction/disposition report and the July–September 2014 addendum reports (together detention hearing evidence), the court sustained the allegations and exercised jurisdiction over the Minors under section 300, former subdivision (b). Finally, the court set a date for a contested disposition hearing.

D. *The Contested Disposition Hearing (Sept. 30, 2014)*

In anticipation of the contested disposition hearing, in late September the Agency filed an addendum report based on its further investigation (September 2014 addendum report). Mother remained in denial of any possibility that Eddie sexually abused Adrian, although she did acknowledge that she had been neglectful toward him. Eddie had not engaged in any reunification services.

At a hearing on September 30, 2014, the juvenile court received into evidence the September 2014 addendum report, took judicial notice of the detention hearing evidence and considered the various other previously filed reports and addendum reports.

The court declared the Minors to be dependents of the court. (§ 360, subd. (d).) Adrian was removed from Mother's custody and placed in the home of a relative; Mother was granted supervised visitation of Adrian, who was to have no contact with either Marco or Eddie; Eduardo was removed from the custody of Mother and Eddie and placed in foster care; Mother was granted unsupervised visitation of Eduardo; and Eddie was granted supervised visitation of Eduardo.

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that Eddie's use of cocaine and alcohol to excess was evidenced by, among many incidents, his inappropriate touching of Adrian and Justine.

Finally, the court set dates for the section 366.21 six-month and 12-month review hearings.

E. *The Section 366.21 Contested Six-month Review Hearings (Mar. 30, 2015 & May 6, 2015)*

In anticipation of the six-month review hearing, in mid-March 2015 the Agency filed a status review report (March 2015 status review report).

Mother had moved to a one-bedroom apartment. Although Eddie did not live with her, he helped support her by contributing to her living expenses.

Mother was not sure whether the allegations of sexual abuse were true, although she at least acknowledged both that the abuse may have occurred and that she had not been paying enough attention to the Minors at certain points in time.

Mother reported to her therapist that at times *Mother* felt like the victim. The social worker's response was ongoing concern for the Minors' safety, because Mother cared more about continuing her relationship with Eddie than about the Minors — especially given Eddie's failure to seek treatment for substance abuse, domestic violence or sexual abuse (all of which were available to him through his case plan). In particular, due to her relationship with Eddie, Mother had demonstrated that she was not able to protect Adrian from future abuse.

Neither Mother, Marco nor Eddie had demonstrated a consistent commitment and ability to safely and appropriately parent either of the Minors; nonetheless, in the March 2015 status review report the Agency recommended the continuation of reunification services for the parents.

1. *Eduardo*

At the March 30, 2015 six-month review hearing, the juvenile court continued in place all of the prior orders — including specifically orders for visitation (Mother's unsupervised; Eddie's supervised) and no contact between Eddie and Adrian — and confirmed the date for the section 366.21 12-month review hearing.

2. *Adrian*

Shortly before filing the March 2015 status review report, the Agency filed a supplemental petition, recommending a modified placement for Adrian. (§ 387.) The Agency requested an order approving a placement in the home of a nonrelative extended family member, because the relative with whom Adrian had been placed was no longer willing to provide care. As part of the March 2015 status report, the Agency reported that Adrian already had been moved to an approved home and that Adrian was very happy about this placement — both the new home and a return to the school he had attended before being removed from Mother's custody. At the March 30, 2015 six-month review hearing, the juvenile court sustained the supplemental petition, approved the new placement for Adrian, and set a new date for the continued hearing on Adrian's six-month review.

On the morning of the date of the continued six-month review hearing, the Agency filed a petition to terminate the previously ordered reunification services for Marco (Adrian's father) and an addendum report in support of the petition. (§ 388.) The Agency explained: Marco's whereabouts had been unknown for the majority of the review period; he had not provided any verification of progress in services; he had only

one visit with Adrian in early February 2015; he had not contacted the Agency to set up further visitation; he had not had any contact with the Agency since mid-March 2015; and there was an outstanding warrant for his arrest. At the hearing, the juvenile court found that the Agency had met its prima facie burden on the section 388 petition, set the matter for a contested evidentiary hearing at Marco's request, and continued Adrian's six-month review until immediately following the proceedings on the Agency's section 388 petition.

On May 6, 2015, the juvenile court presided over the trial on the Agency's contested section 388 petition and the continued six-month review hearing. Based on its findings that Marco failed to participate regularly and make substantive progress in the previously ordered treatment plan, the court terminated reunification services for Marco. Finally, the court confirmed the date of the hearing for the section 366.21 12-month review.

F. *The Contested Section 366.21 12-Month Review Hearing (Sept. 4, 2015)*

In anticipation of the contested 12-month review hearing, the Agency prepared and submitted a status review report filed July 8, 2015, and addendum reports filed August 10 and 26, 2015 (together 12-month review reports).

Eddie continued denying any wrongdoing and refusing to engage in reunification services; thus, he remained untreated for sexual abuse, domestic violence and substance abuse. Mother repeatedly stated that she was no longer in a relationship with Eddie, but

the Agency confirmed that she still had contact with him.<sup>11</sup> Eddie reported both that he was in a relationship with Mother and that he was financially supporting her. The Agency remained "very concerned for the safety" of the Minors "if they were to be returned to the parents' care."

Mother had made "some progress" in her reunification services, but still had failed to accept Adrian's disclosures of sexual abuse. By continuing her relationship with Eddie (in violation of her safety plan), Mother had not demonstrated an ability to protect Adrian from future abuse. Mother had no plan to ensure that Eddie not have contact with Adrian in the future. Eddie hoped to resume living with Mother, but had no plans how to achieve this goal without violating the court order precluding him from having contact with Adrian.

The Agency recommended to the juvenile court that it terminate services for Mother and Eddie and set a section 366.26 permanency plan hearing.

At the 12-month review hearing in September 2015, the court received into evidence the 12-month review reports and a certificate of completion of a parenting class from Eddie; heard testimony from the social worker and Mother; and considered the

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<sup>11</sup> For example, in early June 2015, the social worker saw Mother and Eddie leave Mother's apartment together at 7:00 a.m. At the time, Mother explained that Eddie visited at times and that she was giving him a ride that morning. During a follow-up visit, Mother acknowledged that although she wanted to terminate her relationship with Eddie, she was unable to due to her financial reliance on his family.

Similarly, in late August 2015, following a court settlement conference, Mother reported that she continued to avoid contact with Eddie and had not given him her new residence address. When checking Mother's cell phone log, however, the social worker saw over 20 recent entries (incoming and outgoing) for Eddie.

arguments of counsel. In ruling, the juvenile court found the social worker to be "very credible," especially compared with Mother, whose testimony the court found to be "very rehearsed" and of "question[able] . . . veracity." The court found that there was not a substantial probability that either of the Minors would be returned to either of his parents. Accordingly, as requested by the Agency and the Minors, the court terminated reunification services for both Mother and Eddie and set a date for a section 366.26 permanency plan hearing.

G. *The Contested Section 366.26 Permanency Plan Hearing (Mar. 2, 2016)*

In preparation for the section 366.26 permanency plan hearing,<sup>12</sup> the Agency prepared and submitted a section 366.26 report filed December 15, 2015, and addendum reports filed January 25 and February 26, 2016 (together section 366.26 hearing reports). The Agency recommended that the juvenile court terminate all parental rights (Mother's, Marco's and Eddie's) and refer Adrian and Eduardo for adoptive placement.<sup>13</sup>

At the March 2, 2016 hearing, the juvenile court received into evidence the section 366.26 hearing reports; accepted all counsel's stipulation as to the qualifications of the social worker; heard testimony from Mother; and considered closing arguments from all counsel.

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<sup>12</sup> The section 366.26 permanency planning hearing is also referred to as a selection and implementation hearing. (*In re Marilyn H.* (1993) 5 Cal.4th 295, 298, fn. 2.)

<sup>13</sup> Marco did not oppose the Agency's recommendations.

Based on the evidence and argument presented,<sup>14</sup> the court found as follows: adoption is the best permanent plan, in that adoption is in the best interest of each of the Minors; each of the Minors is specifically and generally adoptable; and none of the exceptions in section 366.26, subdivision (c)(1)(B) applies. Correspondingly, the court ordered as follows: Mother's, Marco's and Eddie's parental rights are terminated; and Adrian and Eduardo are referred to the Agency for adoptive placement.

The court filed the Orders on March 2, 2016, and Samantha timely appealed.

## II.

### DISCUSSION<sup>15</sup>

Mother argues that the juvenile court erred when it determined the beneficial relationship exception to adoption did not apply and terminated her parental rights. (§ 366.26, subd. (c)(1)(B)(i).) More specifically, Mother contends that, because of a lack of substantial evidence to support the court's failure to apply the beneficial relationship exception to the termination of the parent-child relationship, the court abused its discretion in terminating her parental rights.

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<sup>14</sup> We will discuss the evidence necessary to a determination of the issue on appeal in part II.B.1., *post*.

<sup>15</sup> The Minors join in the Agency's arguments on appeal.

A. *Law*

1. *Beneficial Relationship Exception to the Termination of Parental Rights*

After reunification services are terminated, the focus of a dependency proceeding shifts from preserving the family to promoting the best interests of the child, including the child's interest in a stable, permanent placement that allows the caregiver to make a full emotional commitment to the child. (*In re Jason J.* (2009) 175 Cal.App.4th 922, 935-936 (*Jason J.*)) At the section 366.26 permanency planning hearing, the juvenile court has three options: (1) terminate parental rights and order adoption as the permanent plan; (2) appoint a legal guardian for the child; or (3) order the child placed in long-term foster care. (*Jason J.*, at pp. 935-936.) As shown by the language of section 366.26, subdivision (b),<sup>16</sup> the Legislature has directed a "mandatory preference for adoption over legal guardianship over long-term foster care." (*San Diego County Dept. of Social Services v. Superior Court* (1996) 13 Cal.4th 882, 888; accord, *In re Michael G.* (2012) 203 Cal.App.4th 580, 588 (*Michael G.*); *In re Autumn H.* (1994) 27 Cal.App.4th 567, 573 (*Autumn H.*) ["Adoption, where possible, is the permanent plan preferred by the Legislature."].)

Thus, once the juvenile court finds that the child is likely to be adopted within a reasonable time, the court *must* select adoption as the permanent plan, unless the court

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<sup>16</sup> "At the [section 366.26] hearing, . . . the court, in order to provide stable, permanent homes for these children, . . . shall make findings and orders *in the following order of preference:*" *termination of parental rights and adoption*; guardianship; and long-term foster care. (§ 366.26, subd. (b), italics added.)



finds that termination of parental rights would be detrimental to the child under one of the specified statutory exceptions. (§ 366.26, subd. (c)(1)(A) & (B); *Michael G.*, *supra*, 203 Cal.App.4th at p. 589; *Jason J.*, *supra*, 175 Cal.App.4th at p. 936.) "The parent has the burden of establishing the existence of any circumstance that constitutes an exception to termination of parental rights." (*In re T.S.* (2009) 175 Cal.App.4th 1031, 1039; accord, *In re Anthony B.* (2015) 239 Cal.App.4th 389, 395 (*Anthony B.*))

Because a permanency planning hearing occurs "after the court has repeatedly found the parent unable to meet the child's needs, it is only in an *extraordinary* case that preservation of the parent's rights will prevail over the Legislature's preference for adoptive placement." (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1350, italics added (*Jasmine D.*)) Emphasizing "the *exceptional nature* of all the circumstances identified in section 366.26, subdivision (c)(1)" in its 1998 revisions to the statute, the Legislature "require[d] the court to find not only that one of the listed circumstances exists, but also that it provide 'a *compelling reason* for determining that termination would be detrimental to the child.'" (*Jasmine D.*, at p. 1349, italics added; see Stats. 1998, ch. 1054, § 36.6.)

Section 366.26, subdivision (c)(1)(B)(i) provides an exception to the adoption preference where termination of parental rights would be detrimental to the child based on a showing *both* that "[t]he parents have maintained regular visitation and contact with the child" *and* that "the child would benefit from continuing the relationship." (*Ibid.*) The first phrase is self-explanatory. The latter phrase ("benefit from continuing the relationship") refers to a parent-child relationship that " 'promotes the well-being of the

child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.' " (*Jason J.*, *supra*, 175 Cal.App.4th at p. 936, quoting from *Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.)

## 2. *Standard of Review*

"We apply the substantial evidence standard of review to the factual issue of the existence of a beneficial parental relationship, and the abuse of discretion standard to the determination of whether there is a compelling reason for finding that termination would be detrimental to the child." (*Anthony B.*, *supra*, 239 Cal.App.4th at p. 395; accord, *In re J.C.* (2014) 226 Cal.App.4th 503, 530-531; *In re Bailey J.* (2010) 189 Cal.App.4th 1308, 1314-1315 (*Bailey J.*).) We are aware of authority that suggests we should apply the substantial evidence standard to all of the juvenile court's findings related to the applicability of the beneficial relationship exception to the termination of parental rights. (E.g., *Autumn H.*, *supra*, 27 Cal.App.4th at p. 576; *In re L. Y. L.* (2002) 101 Cal.App.4th 942, 953.) We find the hybrid standard more persuasive and apply it here, agreeing that in a case like this "[t]he practical differences between the two standards of review are not significant." (*Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1351.)

In our review of the substantiality of the evidence, all presumptions are in favor of the Orders; we consider the evidence in the light most favorable to the Agency and the Minors, giving them the benefit of every reasonable inference and resolving all conflicts in support of the Orders. (*Autumn H.*, *supra*, 27 Cal.App.4th at p. 576.) We do not reweigh evidence, evaluate credibility of witnesses or consider inferences contrary to the court's findings. (*Michael G.*, *supra*, 203 Cal.App.4th at p. 589.) The testimony of a

single witness or evidence from a single document may be sufficient (Evid. Code, § 411); whereas even uncontradicted evidence in favor of Mother does not establish the fact for which the evidence was submitted (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 890). All evidence favorable to the Agency and Minors " 'must be accepted as true and that which is unfavorable discarded as not having sufficient verity to be accepted by the trier of fact.' " (*In re Brittany H.* (1988) 198 Cal.App.3d 533, 549 (*Brittany H.*)). As particularly applicable here, we must affirm if the findings in the Orders are supported by substantial evidence, "even though substantial evidence to the contrary also exists and the trial court might have reached a different result had it believed other evidence." (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228 (*Dakota H.*)). The issue is not whether there is evidence in the record to support a finding Mother *wishes had been made*, but whether there is evidence that, if believed, would support the finding *actually made*. (*Bowers v. Bernards* (1984) 150 Cal.App.3d 870, 872-873.)

With regard to our review of the juvenile court's exercise of discretion, the appropriate test " ['] "is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court." ' " (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319 [placement of child based on child's best interest in dependency proceeding].)

#### B. *Analysis*

The juvenile court found that, for purposes of section 366.26, subdivision (c)(1)(B)(i), Mother "maintained regular visitation and contact" with both

Adrian and Eduardo. (*Ibid.*) Thus, the only issue on appeal is whether, for purposes of section 366.26, subdivision (c)(1)(B)(i), the court erred in finding that Mother did not meet her burden of establishing that the Minors "would benefit from continuing the [parent-child] relationship" with her. (*Ibid.*) We conclude the court did not err.

As the evidence showed, throughout the almost two years of proceedings in this case, Mother continued to have an ongoing personal relationship with Eddie, who refused to be treated for substance abuse, domestic violence or sexual abuse. Indeed, Mother continued regular contact with Eddie even during the six months between the 12-month review hearing — at which the court terminated Mother's reunification services and advised Mother orally and in writing that the purpose of the next hearing would be to implement a permanent plan of adoption, guardianship or other permanent living situation for the Minors<sup>17</sup> — and the permanency plan hearing. The social worker opined: Because "[t]his continued relationship with [Eddie] exposes the [Minors] to a person who has not been treated for a past history of substance, alcohol and sexual abuse . . . , one can conclude that [*Mother*] *lacks a parental role* when she continues to have a relationship with [Eddie]." (*Italics added.*)

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<sup>17</sup> In orally ruling at the 12-month review hearing, the court expressly told Mother that by her continuing her relationship with Eddie, she "has not yet realized and embraced the issue and the danger that [Eddie] presented and continues to present to Adrian as an untreated sexual perpetrator against the child, nor does she understand the danger that . . . he could pose to Eduardo." Mother then left the courthouse and picked up Eddie in her car a few blocks away. Later that day, Mother loaned her car to Eddie, who was involved in an accident that left her car inoperable and him arrested for leaving the scene of an automobile accident involving injuries.

Although overall Mother's visits with the Minors went well, at times Adrian would separate himself from the activities and Mother was unable to engage him, and rarely did either Adrian or Eduardo show distress at the end of a visit.

Both Adrian and Eduardo demonstrated behaviors that were indicative of children whose emotional needs were being met; according to the social worker, each was "thriv[ing]" in his respective placement. When asked to describe his safe " 'forever' home," Adrian said it would be a place with " 'no fighting' " (which he defined as " 'yelling and pushing' "), because " 'Ed[ie] fights with my mom and I don't like it.' " In his " 'forever' home," Adrian would like to live with his caregiver, her children, Mother, Eduardo and his (Adrian's) pets. Adrian told the social worker that he had " 'two moms' " — one he identified as " 'Samantha' " (Mother), and the other he identified as " 'mama Isabelle' " (his caretaker). The social worker reported that Eduardo (who was then two and a half) sought affection, approval, security, attention and comfort from his caregivers, who had demonstrated their commitment by "meeting all of his daily needs" and "offer[ing] safety, well[-]being and permanence."

Both Adrian and Eduardo were assessed as "generally adoptable." There were 15 families in San Diego County with an approved adoptive home study that would be willing to adopt a child with Adrian's characteristics. There were 54 families in San Diego County with an approved adoptive home study that would be willing to adopt a child with Eduardo's characteristics. Moreover, both Adrian and Eduardo were "specifically adoptable" by their respective current caregivers. Adrian was well-adjusted

at his current placement and understood the concept and possibility of an adoption by his current caregiver.

In the opinion of the social worker, the parent-child relationship between Mother and either of the Minors did not outweigh the benefits of adoption for both of the Minors.

On appeal, Mother does not argue that the foregoing evidence is *insufficient as a matter of law* to support the juvenile court's finding that Mother did not meet her burden of establishing the applicability of the beneficial parent-child relationship exception to the termination of her parental rights. (See *Bailey J.*, *supra*, 189 Cal.App.4th at p. 1314 [a challenge to a finding of no beneficial relationship requires a showing that "the 'undisputed facts lead to only one conclusion' "].) Rather, she instead focuses on other evidence and argues its sufficiency to support the application of the exception.<sup>18</sup> Such an approach may be appropriate in the juvenile court *before* the decision has been made that the exception does not apply; *after* the decision has been reached, however, the appellate court must accept as true all evidence favorable to the ruling and " 'discard[] as not having sufficient verity to be accepted by the trier of fact' " all evidence that would support a contrary ruling. (*Brittany H.*, *supra*, 198 Cal.App.3d at p. 549; see *Dakota H.*, *supra*, 132 Cal.App.4th at p. 228 [appellate court disregards substantial evidence in support of contrary finding].)

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<sup>18</sup> Our failure to have described this other evidence throughout this opinion is not a rejection of the evidence. Such evidence, however, is not helpful to the standards we apply on appeal. (See pt. II.A.2., *ante*; text, *post*.)

In applying these standards, the juvenile court did not err in finding that Mother failed to meet her burden of establishing that the benefit to the Minors of maintaining a parent-child relationship with them outweighed the benefit of adoption. (§ 366.26, subd. (c)(1)(B)(i).) Because Mother did not meet this burden, the court's ultimate decision to terminate her parental rights and order a permanent plan of adoption did not exceed the bounds of reason — especially given the statutorily mandated preference for adoption once (as here) reunification services have been terminated (§ 366.26, subd. (b); *San Diego County Dept. of Social Services v. Superior Court*, *supra*, 13 Cal.4th at p. 888). Accordingly, the juvenile court did not abuse its discretion in terminating Mother's parental rights and referring the Minors for adoptive placement.

#### DISPOSITION

Each of the Orders is affirmed.

IRION, J.

WE CONCUR:

HUFFMAN, Acting P. J.

NARES, J.